



Documentation the parties agree provides an accurate representation of the Property as of the effective date of this grant;

WHEREAS, Grantor desires to grant to Grantee, and Grantee desires to accept, a conservation easement (the "Easement") in gross to preserve and protect surface water and groundwater in perpetuity on the Property;

NOW, THEREFORE, [in consideration of \_\_\_\_\_ and other good and valuable consideration, receipt of which is hereby acknowledged,] Grantor does hereby irrevocably grant and convey unto the Grantee a Source Water Conservation Easement in gross, in perpetuity (which Easement is more particularly described below) in and to the Property.

[The bracketed portion of the preceding paragraph may be included if the easement is transferred at a price below its market value and the easement accordingly is being donated in part.]

## **I. PURPOSES**

It is the purpose of this Easement to assure that the Property will be retained forever in its open space, [undeveloped] condition and to prevent any use of the Property that will impair or interfere with the following aspects of the Property worthy of conservation:

1. Water Quality and Supply. The perpetual protection of the quality and sustainable yield of surface water and groundwater resources on and under the Property to:

a.) safeguard present and future community drinking water supplies.

[Describe the watershed and /or reservoir that are located on the Property and water supply value of the Property.]

b.) safeguard the environmental and ecological values of the property which are dependent on water quality and quantity.

[Describe the water-related environmental and ecological values of the Property.]

c.) safeguard from pollution the uncontaminated waters of the Commonwealth; to prevent the creation of any new pollution of the waters of the Commonwealth; and to abate any existing pollution.

[Ensure that the property is located within a critical watershed protection zone. The easement may include additional sections as appropriate and add qualitative descriptions of the Property's conservation values and rationale for protecting each.]

2. Habitat. The protection of the biological integrity of the unusual natural habitat, biological communities and/or ecosystem; and

3. **Open Space.** The preservation and conservation of open spaces, [particularly the \_\_\_\_\_ acres of productive farm and/or forest land, and the wetlands and frontage on [describe waterbodies]], of which the Property consists.

[4. **Other.** The preservation of the public (recreational, scenic, educational, cultural or historic) values which occur on the Property. [Describe these values.]]

All of these purposes are consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h). These specific conservation values are further described in the Baseline Documentation attached as exhibit B.

## **II. DEFINITIONS**

1. **Agricultural management activities** shall include the production, growing, cultivation and harvesting of floricultural products, horticultural products, fruits and vegetables, Christmas trees, sod, grass and forage crops; the raising of fish and aquacultural products; the raising of dairy animals, bees, exotic game animals, poultry, horses and other livestock; except that any such animals shall not be raised in a confined area; the storage and retail sale of agricultural products produced principally on the Property; and the conservation of soil and water resources.

2. **Biosolids** shall mean all treated human and animal wastes, including treated sewage sludge or compost.

3. **Commercial activities** shall mean the wholesale or retail marketing, sale, storage, transportation, transmission or advertising of products or services for a fee or other compensation intended to generate a net profit.

4. **Community water supply** shall mean the source, which provides the raw water used by the public water system. The source may be any or all of the following: lake, pond, reservoir, river, spring, stream, or well.

5. **Forest management activities** shall mean the growing, stocking, thinning, cutting, harvesting, removal or sale of forest trees and other forest plants and animals, and the conservation of soil and water resources.

6. **Groundwater** shall mean subsurface water occurring in the zone of saturation beneath the water table and any perched water zones below the B soil horizon.

7. **Industrial activities** shall mean the manufacturing, assembling or processing of materials.

8. **Pesticides** shall mean herbicides, insecticides, fungicides, rodenticides, biocides and other similar substances that destroy, repel or control pests.

9. **Public water system** shall mean a water system for the provision to the public of water for

human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year, or as this definition may be updated by the Kentucky Natural Resources and Environmental Protection Cabinet, or successor agency.

10. Surface water shall mean water which is open to the atmosphere and subject to surface runoff or groundwater under the direct influence of surface water. Groundwater under the direct influence of surface water means water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae or large-diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

11. Sustainable yield shall mean that rate of annual water withdrawal for the community water supply that can be replenished naturally from the watershed on an annual basis, without significant ecological impacts.

### **III. RIGHTS AND RESPONSIBILITIES OF GRANTEE**

To accomplish the purpose of this Easement the following rights and responsibilities are conveyed to Grantee by this Easement:

1. To preserve and protect the conservation values of the Property;
2. To enter upon the Property in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with Section VII. The Grantee shall enter upon the property to monitor compliance every six months and shall report on the results of its inspection to the Grantor and to the Kentucky Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water, or its successor. Except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, Grantee's entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and
3. To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Section VII.

### **IV. PROHIBITED USES AND ACTIVITIES**

Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited. Grantor will not perform or give permission to or allow others to perform the following acts on the Property:

1. Industrial and Commercial Activities. No industrial or commercial activities shall be allowed on the Property except for activities permitted in Section V and approved by Grantee.

2. Subdivision. The Property shall not be subdivided or otherwise divided into separate ownerships on the ground and none of the individual tracts which together comprise the Property shall be conveyed separately from one another, excepting:

a.) any subdivision as may be necessary to accommodate and convey ownership of a parcel containing a present or future reservoir and/or associated community drinking water facilities to the Grantee or other community water supplier approved by the Grantee; and/or

b.) any subdivision as may be necessary to convey an interest in land to a conservation organization within the meaning of Section 170(h)(3) of the U.S. Internal Revenue Code of 1986, as amended, or to a public conservation agency.

The design of the subdivision must receive the prior written approval of the Grantee in order to be carried out. Grantee's approval or denial will be based upon the proposal's consistency with the purposes of this Easement. All other provisions of this Easement shall remain in effect on any parcels so subdivided and all subsequent owners of the newly created parcels must meet the qualifications stipulated above.

3. Improvements. No dwelling, any portion of a septic system, billboard, tennis court, swimming pool, dock, aircraft landing strip, or mobile home shall be permanently or temporarily constructed, placed, or introduced onto, above, or below ground on the Property. No other structures or improvements shall be allowed, including but not limited to utilities, dams, roads, storage tanks, and towers, except for those accessory to activities permitted in Section V and approved by the Grantee.

[Address any existing structures and tailor to property.]

4. Land Surface Alterations. No removal, filling, or other disturbances or erosion of the soil surface, above or below the water table, or any changes in topography, surface or subsurface water systems, wetlands or wetland habitat shall be allowed, except as necessary in conjunction with permitted activities approved by the Grantee and specified in Section V below, provided that any surface so altered will be recontoured, stabilized and revegetated in a timely fashion, with consideration given to weather conditions favorable to revegetation.

5. Resource Extraction. There shall be no mining, quarrying, excavation or extraction of groundwater, surface-water, rocks, minerals, gravel, sand, topsoil, or other similar materials, except as necessary in conjunction with permitted activities approved by the Grantee and specified in Section V.1.

a.) In no case may minerals be removed from the Property.

b.) Following any permitted extraction, the land surface must be recontoured, revegetated

and stabilized in a timely manner, with consideration to weather conditions favorable to revegetation.

[The Grantee must ensure that the Grantor has not previously transferred any interests in mineral rights to the property and owns all rights to extract minerals from the property.]

6. Waste Disposal. There shall be no dumping, discharge, injection, burning, or burial of waste generated off the Property, including snow; nor of synthetic or manufactured materials or materials then known to be environmentally hazardous, whether generated on or off the Property, including but not limited to refuse, vehicle parts or bodies, or other hazardous materials.

7. Storage Tanks. No underground or above ground tanks for the storage of hazardous substances, such as gaseous or liquid petroleum products, shall be installed, placed or allowed to remain on the Property, except that above-ground fuel tanks with adequate spill containment may be used in conjunction with water supply activities as permitted in Section V.1.

8. Hazardous Substances. No substances which constitute a hazard to public health or the environment shall be transported, used, stored, applied or disposed of in any manner or to any extent on or under the Property, except as necessary in conjunction with on-site activities as permitted in Section V and approved by Grantee.

9. Impervious Surfaces. No more than 3 % of the Property shall be covered by buildings or other impervious materials. The location of any impervious surfaces must receive the prior review and approval of Grantee.

10. Water Quality Degradation. Surface water and groundwater quality shall be preserved and in no event shall be polluted or degraded by activities on the Property so that the surface or groundwater quality on the Property reaches or violates drinking water standards or water quality standards defined by the Kentucky Natural Resources and Environmental Protection Cabinet, or by an agency with the statutory authority to regulate public water supplies or surface water quality.

11. Unsustainable Water Withdrawal. The quantity of surface water withdrawn from the Property shall not exceed the sustainable yield.

12. Rare Species Harm. Activities shall not harm or otherwise take state or federally recognized rare, threatened or endangered species as defined by the U.S. Department of the Interior or the Kentucky Natural Resources and Environmental Protection Cabinet or the agency then recognized by the Commonwealth of Kentucky as having statutory responsibility for the conservation of such species.

13. Recreational Uses. No horses or other livestock, docks, trails, camping, fires, all-terrain vehicles, snowmobiles, motorized watercraft or other motorized recreational vehicles shall be allowed.

14. Detrimental Uses. Notwithstanding the foregoing provisions with regard to specific prohibited uses and activities, but in addition thereto, no activity or use shall be initiated or maintained or allowed to be initiated or maintained which is detrimental or threatens to become detrimental to the conservation purposes of this Easement and the protection of the quality and quantity of the present or potential community water supply.

## **V. PERMITTED USES AND ACTIVITIES**

Grantor reserves all rights accruing from ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved and permitted to Grantor:

### **1. Community Drinking Water Supply.**

[Rights and terms of any withdrawal of community drinking water from the Property should be specified in a separate document.]

At Grantor's option, surface water may be withdrawn by Grantee or Grantee's designee on a sustainable yield basis and exported from the property if used for a community drinking water supply, as defined herein. For the purposes hereof, permitted activities in conjunction with the provision of a public drinking water supply shall be defined as the installation, maintenance, monitoring and replacement of reservoirs, dams, treatment facilities, a water distribution system, pump stations, and ancillary improvements such as roads, signs, utilities, security facilities; and the extraction and export of water from the Property, all for the purpose of serving community drinking water supply needs. Said activities may be conducted provided that they are authorized by and conform to a state permit authorizing water extraction.

2. Agriculture and Forestry. Agricultural and forest management activities are allowed on the Property as defined herein. Necessary ancillary improvements which serve on-site forest and agricultural management activities, such as forest and farm roads, utilities, wells, irrigation pumps, ponds, equipment sheds, fences, culverts and bridges, may be constructed on the Property. Agricultural and forest management may be conducted on the property provided that:

a.) forest and agricultural activities shall promote the overall conservation of viable populations of plant and animal species; and

b.) forest management activities in which more than the equivalent of 10,000 board feet of wood are cut in any calendar year shall be conducted in accordance with a written "Forest Management Plan" prepared by a professional forester; and agricultural activities are conducted in accordance with a written "Farm Management Plan."

The preparation of these plans are the responsibility of the Grantor. The plans shall be submitted to and ruled upon by Grantee (see Section VI), in advance of implementation and updated at least every ten years or on such timetable as may be mutually agreed upon in writing by Grantor and Grantee. The plans shall include:

- i.) natural resource inventory of the Property (including special plant and animal habitat; wildlife; soils; forest types stocking and stand histories; steep slopes, floodplains, wetlands and other surface waters);
- ii.) watershed boundaries;
- iii.) current or potential reservoir and water supply facilities and location(s);
- iv.) proposed transportation, storage, use, disposal, timetable and application rates of specific pesticides, fertilizers, septage, manure, biosolids, and other similar soil amendments;
- v.) log landing and forestry and farm road design and layout;
- vi.) proposed buffer zones, cover cropping, erosion controls and other methods to protect surface waters;
- vii.) forest management and harvesting methods and goals;
- viii.) location, uses, and types of ancillary improvements; vehicle use; time of year or conditions for operations; conversion of forest to cleared land; exposure of bare soils; creation of impervious areas;
- ix.) habitat and scenic impacts;
- x.) proposed resource extraction, land alterations, and forest or agricultural by-product on-site disposal; and

c.) forest management activities shall be supervised by a professional forester; and

d.) forest and agricultural management activities must be conducted, to the extent possible, in accordance with scientifically-based practices as recommended by state or federal natural resource agencies such as the Natural Resource Conservation Service and with the “Best Management Practices” as set forth in the following publications or as these publications may be specifically updated or superseded:

[List applicable publications.]

[e.) (optional) management activities shall not significantly impair the scenic quality of the Property as viewed from public waters, roads or trails.]

3. Outdoor Recreation. Outdoor recreation is allowed provided that no trails or other recreational improvements may be created or maintained.

4. Detrimental Uses. Notwithstanding the foregoing provisions with regard to specific permitted uses and activities, but in addition thereto, no activity or use shall be initiated or maintained or allowed to be initiated or maintained which is detrimental or threatens to become detrimental to the conservation purposes of this Easement and the protection of the quality and quantity of the present or potential community water supply.



## **VI. GRANTEE APPROVAL FOR PERMITTED USES AND ACTIVITIES**

The Grantor hereby covenants and agrees that Grantor shall not commence any use or activity which requires prior written approval, or any other potentially detrimental uses, without having obtained Grantee's approval according to the procedures set forth hereunder:

1. The Grantor shall notify the Grantee in writing of any proposed plan, use or activity which requires Grantee approval under the terms of this Easement and shall submit to the Grantee, at least 30 days in advance, plans and such other information as the Grantee may require.
2. The Grantee shall approve any or all elements of such proposed plan, use or activity, with or without conditions, only upon a written finding from Grantee to Grantor (a) that the proposed plan, use or activity is consistent with the terms of this Easement and (b) that such plan, use or activity shall not defeat or derogate from the purposes of this Easement. If the Grantee does not approve any or all elements of the proposed plan, use or activity, it shall provide written notice and explanation thereof to the Grantor. Such approval or denial shall be made within sixty (60) days of receiving Grantor's written notice requesting approval of said proposed plan, use or activity.
3. In the absence of a response from the Grantee within the 60-day period, Grantee understands that Grantor may proceed with the proposed activity if it is consistent with this Easement. However, lack of approval or denial by Grantee within the aforesaid 60-day period does not preclude Grantee from denying the plan, use or activity as inconsistent with this Easement at a later date.

## **VII. GRANTEE'S REMEDIES FOR BREACH OF EASEMENT**

1. Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
2. Injunctive Relief. If Grantor fails to cure the violation within 30 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
3. Damages. Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including, without

limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

4. Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire.

5. Scope of Relief. Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in Section VII.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6. Costs of Enforcement. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.

7. Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any rights or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

9. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

10. Third Parties. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.

## **VIII. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE**

1. The Grantor agrees to notify the Grantee in writing 10 days before the transfer of title to the Property or any division of ownership thereof permitted hereby.
2. The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.
3. Any instrument transferring an interest in the Property, including deeds, mortgages, and leases, shall reference the existence of and recording book and page number of this Easement.

## **IX. BENEFITS, BURDENS, AND ACCESS**

1. The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the Commonwealth of Kentucky, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.
2. The Grantee shall have reasonable access to the Property and all of its parts for such inspection as is necessary to determine compliance with and to enforce this Easement and exercise rights conveyed hereby, or to take any and all actions with respect to the Property as may be necessary or appropriate with or without order of court, to remedy or abate any violation.
3. This Easement hereby conveyed does not grant to the general public access or any rights to enter the Property.

## **X. NOTICES**

All notices, requests and other communications, required or permitted to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Grantor or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

## **XI. SEVERABILITY**

If any provision of this Easement, or the application thereof to any person or circumstance, is

found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

## **XII. SEPARATE PARCEL**

The Grantor agrees that for the purpose of determining compliance with any present or future bylaw, order, ordinance, or regulation (within this paragraph referred to as “legal requirements”) of the municipality or the Commonwealth of Kentucky, the Property shall be deemed a separate parcel of land and shall not be taken into account in determining whether any land of the Grantor, other than the Property, complies with any said legal requirements. The Property shall not be taken into account to satisfy in whole or in part any of said legal requirements or any area, density, setback or other dimensional standard applicable to other land of Grantor.

## **XIII. MERGER**

The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Easement set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assign shall be deemed to eliminate the Easement, or any portion thereof, granted hereunder under the doctrine of “merger” or any other legal doctrine.

## **XIV. AMENDMENT**

Grantor and Grantee may mutually agree to amend the provisions of this Easement provided that any amendment shall be in writing, shall be wholly consistent with the purposes of this Easement, shall not affect its area or perpetual duration, and shall result in enhancement of the conservation values of the Property.

## **XV. CONDEMNATION OR TERMINATION**

1. If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with Section XV.2.

2. This Easement constitutes a real property interest immediately vested in Grantee, which for the purposes of this section, the parties stipulate to have a fair market value determined by multiplying (i) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (ii)

the ratio of the value of the Easement at the time of this grant to the value of the Property without deduction for the value of the Easement, at the time of this grant.

3. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, the Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in this connection shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be in proportion to the ration set forth in Section XV.2.

4. The Grantee shall use its share of the proceeds in a manner consistent with and in furtherance of one or more of the conservation purposes set forth herein.

#### **XVI. ENVIRONMENTAL LIABILITY INDEMNIFICATION**

Grantor agrees to indemnify and hold Grantee free and harmless from and against all liability, loss, damage, or expense whatsoever, including reasonable attorney's fees, which may be incurred or suffered by Grantee by reason of any claims for the recovery of damages or costs, or seeking any other legal or equitable relief, arising out of any pollution of groundwater or surface water on the Property.

#### **XVII. EXECUTORY INTEREST**

If Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code of 1986, as amended, or to be authorized to acquire and hold conservation easements under Kentucky law, then Grantee's rights and obligations under this Easement shall become immediately vested in \_\_\_\_\_ (designate back-up Grantee). If \_\_\_\_\_ (back-up Grantee) is no longer in existence at the time the rights and obligations under this Easement would otherwise vest in it, or if \_\_\_\_\_ (back-up Grantee) is not qualified as provided for assignment pursuant to Section IX.1 or if it shall refuse such rights and obligations, then the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct pursuant to applicable Kentucky law.

#### **XVIII. ARBITRATION OF DISPUTES**

1. Any dispute arising under this Easement may, upon mutual agreement of Grantee and Grantor, be submitted to arbitration in accordance with KRS 417.050.

2. The Grantor and Grantee shall each choose an arbitrator within 30 days of written notice from either party. The arbitrators so chosen shall in turn choose a third arbitrator within 30 days of the selection of the second arbitrator.

3. The arbitrators so chosen shall forthwith set as early a hearing date as is practicable which

they may postpone for good cause shown.

4. A decision by two of the three arbitrators, made as soon as practicable after submission of the dispute, shall be binding upon the parties and shall be enforceable as part of this Easement, but shall not affect its perpetuity.

**XIX. RECORDING AND EFFECTIVE DATE**

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in furtherance of the conservation purpose for which this Easement is delivered.

Grantee shall do and perform at its own cost all acts necessary to record this instrument in the land records of \_\_\_\_\_ County, Kentucky. Grantor and Grantee intend that the restrictions arising under this Easement take effect on the day and year this Instrument is recorded in the land records of \_\_\_\_\_ County, Kentucky.

**IN WITNESS WHEREOF**, Grantor has caused this Instrument to be executed and delivered; Grantee has caused this Instrument to be accepted and executed by its duly authorized officer or agent, as of the day and year first herein above written.

Grantor:

\_\_\_\_\_  
[Name]

Grantee:

By: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

COUNTY OF \_\_\_\_\_

The foregoing Instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by [Grantor] \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

COUNTY OF \_\_\_\_\_

The foregoing Instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ [Grantee]

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**CERTIFICATE**

The Grantor and the Grantee hereby swear and acknowledge that the estimated fair cash value of the transfer of this Conservation Easement is \$\_\_\_\_\_.

GRANTOR:

GRANTEE:

\_\_\_\_\_  
[Name]

By: \_\_\_\_\_  
Title: \_\_\_\_\_